

SUPREME COURT OF GEORGIA

State v. Nankervis

295 Ga. 406 (2014) · No. S14A0513 · Decided June 30, 2014

SUMMARY

The Supreme Court of Georgia held that Georgia's methamphetamine trafficking statute was constitutional and that the rule of lenity did not require sentencing Thomas Nankervis under the general controlled-substance manufacturing statute. The court found sufficient evidence to support the trafficking conviction, vacated the trial court's judgment and sentence on that count, and remanded for sentencing under the trafficking statute; it also vacated an excessive fine for the open-container violation.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hunstein, Justice
JURISDICTION	Georgia
DECIDED	June 30, 2014
DOCKET	S14A0513
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed from the trial court's ruling that Georgia's methamphetamine-trafficking statute was unconstitutional and from the resulting sentence for manufacturing a controlled substance under the rule of lenity.
STANDARD OF REVIEW	Constitutional challenges involving substantive due process and equal protection were reviewed under the rational-basis test. The sufficiency of the evidence was reviewed under whether, viewing the evidence in the light most favorable to the verdict, a rational trier of fact could find guilt beyond a reasonable doubt under Jackson v. Virginia.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	The State v. Thomas Nankervis

TOPICS

- criminal procedure
- statutory interpretation
- sentencing
- due process
- equal protection

PRACTICE AREAS

Criminal law

Criminal procedure

Appellate litigation

Constitutional law

QUESTIONS PRESENTED

1. Whether OCGA § 16-13-31 (f) and (g), including the substantial-assistance sentencing provision, violated substantive due process or equal protection.
2. Whether the rule of lenity permitted sentencing Nankervis under the general controlled-substance manufacturing statute rather than the specific methamphetamine-trafficking statute.
3. Whether sufficient evidence supported Nankervis's conviction for trafficking in methamphetamine.
4. Whether the trial court's secondary-verdict procedure constituted reversible error.
5. Whether the fine imposed for the open-container violation exceeded the statutory maximum.

HOLDINGS

1. OCGA § 16-13-31 (f) (1), (g) (1), and (g) (2) do not violate substantive due process or equal protection because the classification rewarding defendants who provide substantial assistance bears a rational relationship to the legitimate governmental objective of assisting law enforcement in identifying, arresting, or convicting participants in drug networks.
2. The rule of lenity does not apply because OCGA § 16-13-31 (f) is a specific criminal statute governing methamphetamine trafficking, while OCGA § 16-13-30 (b) is a general controlled-substance statute; the specific statute prevails absent contrary legislative intent.
3. The evidence was sufficient to enable a rational trier of fact to find beyond a reasonable doubt that Nankervis committed methamphetamine trafficking, failure to maintain lane, and the open-container violation.
4. Any error in the trial court's request for a secondary verdict on manufacturing methamphetamine was harmless.
5. The trial court improperly imposed a fine exceeding the statutory maximum for the open-container violation; the sentence on that count had to be vacated and remanded for resentencing.

KEY QUOTATIONS

“the rule of lenity comes into play only to resolve ambiguities that remain ‘after applying all other tools of statutory construction.’” (7)

“a specific statute will prevail over a general statute, absent any indication of a contrary legislative intent.” (7)

FACTUAL BACKGROUND

During an early-morning traffic stop prompted by erratic driving and weaving, officers discovered an open beer can and were told by Nankervis that a marijuana cigarette was in the van. A search revealed numerous items consistent with a methamphetamine laboratory, including chemical precursors, tubing, containers, batteries, and

gloves, as well as scales, drug-use paraphernalia, and less than one gram of methamphetamine. A narcotics investigator testified that liquid found in a bottle was being converted into methamphetamine.

PROCEDURAL HISTORY

A Columbia County grand jury indicted Nankervis for methamphetamine trafficking, failure to maintain lane, and violating the open-container law. A jury found him guilty on all three counts and also returned a secondary verdict for manufacturing methamphetamine. The trial court held the methamphetamine-trafficking sentencing provisions unconstitutional, applied the rule of lenity, and sentenced Nankervis for manufacturing a controlled substance. The Supreme Court of Georgia reversed the constitutional ruling, held that lenity did not apply, vacated portions of the judgment and sentences, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Enter judgment on Count 1 for trafficking methamphetamine and sentence Nankervis accordingly; resentence Nankervis on Count 3, the open-container violation, using a fine no greater than the statutory maximum. The trial court's ruling granting in part the motion to dismiss and the judgment and sentence on Count 1 were vacated or reversed as specified.

CASES CITED

- *Favorito v. Handel*, 285 Ga. 795, 796 (1) (684 SE2d 257) (2009)
- *Harper v. State*, 292 Ga. 557, 560-61 (1) (738 SE2d 584) (2013)
- *United States v. Torres*, 33 F3d 130, 132 (1st Cir. 1994)
- *United States v. Musser*, 856 F2d 1484, 1487 (11th Cir. 1988)
- *State v. Benitez*, 395 So. 2d 514 (Fla. 1981)
- *Wheatt v. State*, 410 So. 2d 479 (Ala. Crim. App. 1982)
- *Higdon v. State*, 291 Ga. 821, 826 (2) (b) (733 SE2d 750) (2012)
- *Mann v. State*, 273 Ga. 366, 368 (1) (541 SE2d 645) (2001)
- *Woods v. State*, 279 Ga. 28, 31 (3) (608 SE2d 631) (2005)
- *Richards v. State*, 290 Ga. App. 360, 363 (2) (659 SE2d 651) (2008)
- *Bassett v. Lemacks*, 258 Ga. 367, 370 (2) (370 SE2d 146) (1988)
- *Jackson v. Virginia*, 443 U.S. 307 (1979)